

**REMARKS**

Claims 31-50 and 70 are pending. Claims 31-50 and 70 are rejected. After entry of the enclosed amendments claims 31, 32, 35, 38, 39, 40, 43, 45 and 46 are amended.

**Claim Amendments**

Applicants have amended the above-identified claims by amending the phrase “a first laser-scored pattern” to read “a first plurality of laser-scored patterns. Support for this amendment is found on page 14, lines 6 to 15, and Figure 18A of the instant specification.

Claim 39 has been amended by reinserting the following text:

“...and a second portion, wherein said first portion is disposed from said second portion in the transverse direction of said surface of said flexible film.”

The above text was originally present in the preliminary amendment filed on March 3, 2003.

**Rejections Withdrawn**

Applicants note with appreciation the withdrawal of the previous rejections under 35 USC §§ 112, 102 and 103.

**35 U.S.C. 112**

Claims 31-50, 70 are rejected by the Examiner under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Specifically the Examiner states that the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The new matter issue as stated by

the Examiner is “a first laser-scored pattern in the first surface of the flexible film but not in the second surface of the flexible film.”

With respect to the rejection of the claims under 35 U.S.C. 112, Applicants respectfully direct the Examiner’s attention to page 14, line 3 of the specification which reads in part as follows:

“The laser beam is applied to a surface of the web to score . . .”.

Applicants respectfully submit that the above disclosure supports the amendment to the claims which reads “in the first surface of the flexible film . . .” Applicants take the position that a surface has the same meaning as first surface. As stated earlier in Applicants’ response “a first laser-scored pattern” has been amended to read “a first plurality of the laser-scored patterns”. Support for this amendment was discussed earlier in this response.

**35 U.S.C. §102**

Claims 31, 38-46 are rejected by the Examiner under 35 USC §102(b) as being anticipated by Huizinga for the reasons presented in the subject Office Action.

With respect to the rejection under 35 USC §102(b), as being anticipated by Huizinga, this rejection is respectfully traversed in view of the claims as amended and for the reasons that follow: More specifically independent claims 31 and the claims which are depended from claim 31 have been amended to define that a plurality of laser-scored patterns form a first line of weakness in said flexible film running continuously in the machine direction of the film. This teaching is in direct contrast to the teaching of Huizinga which teach separates laser-scored segments on sections on the film surface.

Huizinga discloses discrete, independent and separate laser-scored segments or sections. Specifically, Huizinga illustrates and discloses scores lines 21 that are not continuous in the machine direction of the flexible film, but are segmented. For example, Huizinga teaches, “Scores lines 21 in this case do not continue as far as the turned down rim of the packaging material but terminate in the “full” material near the point P.” Col. 5, lined 3-6. None of the laser scored segments run continuously in the machine direction of the flexible film as is described in independent claim 31. Applicants invention, as defined by the subject claims, describes a continuous score line from a laser beam that never has to be removed from the flexible film or turned off. The flexible film can, therefore, form a plurality of packages having score lines running continuously from edge to edge across the faces of the packages.

Under 35 U.S.C. §102, anticipation requires that a single prior art reference must disclose each and every element of Applicants' claimed invention. *Akzo v. U.S. International Trade Commission*, 808 F.2d 1471, 1479 (Fed. Cir. 1986). Since Huizinga fails to disclose each of the elements defined in amended claims 31 as well as the claims depend from claims 31 the rejection thereto has been overcome and should be withdrawn.

**35 U.S.C. §102**

Claims 32-37, 49-50, and 70 are rejected by the Examiner under 35 USC §103(a) as being unpatentable over Huizinga in view of Schlaeppi (0596747). A complete discussion of the Examiner's reasons for rejection can be found in the subject Office Action.

With respect to the rejection under 35 U.S.C. §103(a) of the subject claims as being unpatentable over Huizinga in view of Schlaeppi, Applicants respectfully submit that the claims,

as amended, distinctly define the present invention from any art of record, taken singly or in combination for the reasons that follow.

Specifically, independent claim 31 has been amended to define a plurality of laser-scored patterns forming a first line of weakness in the flexible film running continuously in the machine direction of the flexible film. This feature (a continuous line of laser-scored patterns) is nowhere taught or disclosed in Huizinga. Applicants reiterate their remarks regarding the Huizinga disclosure which were presented earlier in this response.

Schlaepi discloses an easy open package comprising a multi-layer flexible packaging film which includes a inner layer an outer layer and rows of slits to facilitate opening of the package. Schlaepi further disclosed that the slits are cut into the film using a set of knives (one set of knives for each row of slits). Please see column 5, line 15 to 35 of Schlaepi for a complete discussion of this process. Schlaepi still further discloses that a continuous score line (slits) is not preferred because its presents manufacturing difficulties. Accordingly Schlaepi prefers an interrupted or non-continuous score line. Please see column 5, lines 5 to 14 of Schlaepi. Therefore, Schlaepi teaches a score line (slits) which is non-continuous. A teaching which is in direct contrast to Applicants' invention which teaches a plurality of laser-scored patterns forming a first line of weakness in the flexible film running continuously in the machine direction of the flexible film. Therefore, Schlaepi does not cure the deficiency of Huizinga. The fact that Schlaepi discloses a first layer as an outer layer or a first layer as a barrier does not negate the patentability of Applicants' invention as defined by the subject claims because neither Huizinga or Huizinga in combination with Schlaepi teach or suggest Applicants' invention (plurality of laser-scored patterns forming a first line of weakness in the flexible film running continuously in the machine direction of the flexible film).

Since the Examiner has failed to establish a *prima facie* case of obviousness in combining Huizinga with Schlaeppi, the rejection of the claims under 35 U.S.C. §103 is improper and should be withdrawn. Notice to that effect is requested.

Claims 47 and 48 are rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over Huizinga in view of Bailey (6,544,629).

Applicants respectfully submit that the above-identified claims define the invention form any of the art of record taken singly or in combination, for the reasons that follow.

The Huizinga reference, as well as its relevancy or lack thereof to Applicants' invention, was discussed earlier in this response. Bailey discloses a food grade laminate for insertion into a food container. Bailey further discloses that the perforations of the laminate have a burst strength of about 6 to about 16 pounds per lineal inch. It is this feature of the Bailey disclosure in combination with Huizinga that the Examiner relies upon to support the rejection of Applicants' invention as defined by claims 47 and 48.

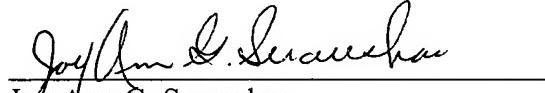
Applicants remarks regarding Huizinga have been presented earlier and therefore need not be reiterated. The Bailey disclosure does not cure the deficiencies of Huizinga as detailed in Applicants' response. The fact that Bailey discloses a burst strength of about 6 to about 16 lbs/inch has no bearing on the patentability of the subject claims because Huizinga does not teach or suggest Applicants' invention as defined by the pending claims. Accordingly, the rejection of claims 47 and 48, based on Huizinga in view of Bailey under 35 U.S.C. §103 are improper and should be withdrawn. Notice to that effect is respectfully requested.

CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully submit that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicants urge the Examiner to telephone Applicants' Agent so that the same may be resolved and the application expedited to issue. Applicants request the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

  
\_\_\_\_\_  
Joy Ann G. Serauskas  
Registration No. 27,952

227 West Monroe Street  
Chicago, IL 60606-5096  
Phone: 312.372.2000 JGS:lap  
Facsimile: 312.984.7700  
**Date: February 27, 2006**

**Please recognize our Customer No. 1923  
as our correspondence address.**